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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ANGELA RAUSCH,

Plaintiff,

v.

JEFFERSON B. SESSIONS,
ATTORNEY GENERAL OF THE
UNITED STATES; FORFEITURE
SUPPORT ASSOCIATES, LLC; and
DOES 1 through 20,

Defendants.

) Case No. 2:17-cv-05422-FMO (JEMx)

) ~~[PROPOSED]~~ ORDER RE
STIPULATION FOR PROTECTIVE
ORDER

) *[Concurrently filed with Stipulation for
Protective Order.]*

) [Assigned for discovery purposes to
Magistrate Judge John E. McDermott]

) Complaint Filed: July 21, 2017
Trial Date: October 30, 2018

1 **[PROPOSED] ORDER**

2 Based upon the Stipulation for Protective Order submitted by the parties, and
3 for good cause shown, the Court hereby ORDERS that:

4 **1. PURPOSES AND LIMITATIONS**

5 Discovery in this action is likely to involve production of confidential,
6 proprietary or private information, such as Plaintiff's medical and psychological
7 records, for which special protection from public disclosure and from use for any
8 purpose other than prosecuting this litigation may be warranted. Accordingly, the
9 parties hereby stipulate to and petition the Court to enter the following Stipulation
10 for Protective Order ("Order"). The parties acknowledge that this Order does not
11 confer blanket protections on all disclosures or responses to discovery and that the
12 protection it affords from public disclosure and use extends only to the limited
13 information or items that are entitled to confidential treatment under the applicable
14 legal principles.

15 **2. GOOD CAUSE STATEMENT**

16 This action is likely to involve confidential and private information for which
17 special protection from public disclosure and from use for any purpose other than
18 prosecution of this action is warranted. Such confidential and private materials and
19 information consist of, among other things, medical records, information otherwise
20 generally unavailable to the public, or which may be privileged or otherwise
21 protected from disclosure under state or federal statutes, court rules, case decisions,
22 or common law. Accordingly, to expedite the flow of information, to facilitate the
23 prompt resolution of disputes over confidentiality of discovery materials, to
24 adequately protect information the parties are entitled to keep confidential, to ensure
25 that the parties are permitted reasonable necessary uses of such material in
26 preparation for and in the conduct of trial, to address their handling at the end of the
27 litigation, and serve the ends of justice, a protective order for such information is
28 justified in this matter. It is the intent of the parties that information will not be

1 designated as confidential for tactical reasons and that nothing be so designated
2 without a good faith belief that it has been maintained in a confidential, non-public
3 manner, and there is good cause why it should not be part of the public record of this
4 case.

5 **3. DEFINITIONS**

6 3.1 Action: The above entitled action, *Rausch v. Sessions et al.*, bearing
7 Case No. 2:17-cv-05422-FMO (JEMx).

8 3.2 Challenging Party: a Party or Non-Party that challenges the
9 designation of information or items under this Order.

10 3.3 "CONFIDENTIAL" Information or Items: information (regardless of
11 how it is generated, stored or maintained) or tangible things that qualify for
12 protection under Federal Rule of Civil Procedure 26(c).

13 3.4 Counsel: Outside Counsel of Record and House Counsel (as well as
14 their support staff).

15 3.5 Designating Party: a Party or Non-Party that designates information or
16 items that it produces in disclosures or in responses to discovery as
17 "CONFIDENTIAL."

18 3.6 Disclosure or Discovery Material: all items or information, regardless
19 of the medium or manner in which it is generated, stored, or maintained (including,
20 among other things, testimony, transcripts, and tangible things), that are produced or
21 generated in disclosures or responses to discovery in this matter.

22 3.7 Expert: a person with specialized knowledge or experience in a matter
23 pertinent to the litigation who has been retained by a Party or its counsel to serve as
24 an expert witness or as a consultant in this Action.

25 3.8 House Counsel: attorneys who are employees of a party to this Action.
26 House Counsel does not include Outside Counsel of Record or any other outside
27 counsel.

28 3.9 Non-Party: any natural person, partnership, corporation, association or

1 other legal entity not named as a Party to this action.

2 3.10 Outside Counsel of Record: attorneys who are not employees of a
3 party to this Action but are retained to represent or advise a party to this Action and
4 have appeared in this Action on behalf of that party or are affiliated with a law firm
5 that has appeared on behalf of that party, and includes support staff.

6 3.11 Party: any party to this Action, including all of its officers, directors,
7 employees, consultants, retained experts, and Outside Counsel of Record (and their
8 support staffs).

9 3.12 Producing Party: a Party or Non-Party that produces Disclosure or
10 Discovery Material in this Action.

11 3.13 Professional Vendors: persons or entities that provide litigation support
12 services (e.g., photocopying, videotaping, translating, preparing exhibits or
13 demonstrations, and organizing, storing, or retrieving data in any form or medium)
14 and their employees and subcontractors.

15 3.14 Protected Material: any Disclosure or Discovery Material that is
16 designated as "CONFIDENTIAL."

17 3.15 Receiving Party: a Party that receives Disclosure or Discovery Material
18 from a Producing Party.

19 **4. SCOPE**

20 The protections conferred by this Stipulation and Order cover not only
21 Protected Material (as defined above), but also (1) any information copied or
22 extracted from Protected Material; (2) all copies, excerpts, summaries, or
23 compilations of Protected Material; and (3) any testimony, conversations, or
24 presentations by Parties or their Counsel that might reveal Protected Material.

25 Any use of Protected Material at trial shall be governed by the orders of the
26 trial judge. This Order does not govern the use of Protected Material at trial.

27 **5. DESIGNATING PROTECTED MATERIAL**

28 5.1 Exercise of Restraint and Care in Designating Material for Protection.

1 Each Party or Non-Party that designates information or items for protection
2 under this Order must take care to limit any such designation to specific material
3 that qualifies under the appropriate standards. The Designating Party must
4 designate for protection only those parts of material, documents, items or oral or
5 written communications that qualify so that other portions of the material,
6 documents, items or communications for which protection is not warranted are not
7 swept unjustifiably within the ambit of this Order.

8 Mass, indiscriminate or routinized designations are prohibited. Designations
9 that are shown to be clearly unjustified or that have been made for an improper
10 purpose (*e.g.*, to unnecessarily encumber the case development process or to impose
11 unnecessary expenses and burdens on other parties) may expose the Designating
12 Party to sanctions.

13 If it comes to a Designating Party's attention that information or items that it
14 designated for protection do not qualify for protection, that Designating Party must
15 promptly notify all other Parties that it is withdrawing the inapplicable designation.

16 5.2 Manner and Timing of Designations. Except as otherwise provided in
17 this Order (*see, e.g.*, second paragraph of section 5.2(a) below), or as otherwise
18 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
19 under this Order must be clearly so designated before the material is disclosed or
20 produced.

21 Designation in conformity with this Order requires:

22 (a) for information in documentary form (*e.g.*, paper or electronic
23 documents, responses to written discovery, but excluding transcripts of depositions
24 or other pretrial or trial proceedings), that the Producing Party affix at a minimum,
25 the legend "CONFIDENTIAL" (hereinafter, "CONFIDENTIAL legend"), to each
26 page that contains protected material. If only a portion of the material on a page
27 qualifies for protection, the Producing Party also must clearly identify the protected
28 portion(s) (*e.g.*, by making appropriate markings in the margins).

1 A Party or Non-Party that makes original documents available for inspection
2 need not designate them for protection until after the inspecting Party has indicated
3 which documents it would like copied and produced. During the inspection and
4 before the designation, all of the material made available for inspection shall be
5 deemed "CONFIDENTIAL." After the inspecting Party has identified the
6 documents it wants copied and produced, the Producing Party must determine
7 which documents, or portions thereof, qualify for protection under this Order. Then,
8 before producing the specified documents, the Producing Party must affix the
9 "CONFIDENTIAL legend" to each page that contains Protected Material. If only a
10 portion of the material on a page qualifies for protection, the Producing Party also
11 must clearly identify the protected portion(s) (e.g., by making appropriate markings
12 in the margins).

13 (b) for testimony given in depositions, the Designating Party must identify
14 the Disclosure or Discovery Material on the record, within the same period of time
15 the deponent has to review and correct the deposition transcript, unless otherwise
16 agreed upon by the Parties in writing.

17 (c) for information produced in some form other than documentary and for
18 any other tangible items, that the Producing Party affix in a prominent place on the
19 exterior of the container or containers in which the information is stored the legend
20 "CONFIDENTIAL." If only a portion or portions of the information warrants
21 protection, the Producing Party, to the extent practicable, shall identify the
22 protected portion(s).

23 (d) Any Disclosure or Discovery Material that is produced pursuant to a
24 subpoena, any Party may designate such Disclosure or Discovery Material as
25 CONFIDENTIAL / Protected Material by notifying all other Parties in writing of
26 the designation within 10 days of the production date set forth in the subpoena.

27 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
28 failure to designate qualified information or items does not, standing alone, waive

1 the Designating Party's right to secure protection under this Order for such
2 material. Upon timely correction of a designation, the Receiving Party must make
3 reasonable efforts to assure that the material is treated in accordance with the
4 provisions of this Order.

5 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

6 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
7 designation of confidentiality at any time that is consistent with the Court's
8 Scheduling Order.

9 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
10 resolution process under Local Rule 37-1 *et seq.*

11 6.3 Joint Stipulation. Any challenge submitted to the Court shall be via a
12 joint stipulation pursuant to Local Rule 37-2.

13 6.4 The burden of persuasion in any such challenge proceeding shall be on
14 the Designating Party. Frivolous challenges, and those made for an improper
15 purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on other
16 parties) may expose the Challenging Party to sanctions. Unless the Designating
17 Party has waived or withdrawn the confidentiality designation, all parties shall
18 continue to afford the material in question the level of protection to which it is
19 entitled under the Producing Party's designation until the Court rules on the
20 challenge.

21 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

22 7.1 Basic Principles. A Receiving Party may use Protected Material that is
23 disclosed or produced by another Party or by a Non-Party in connection with this
24 Action only for prosecuting, defending or attempting to settle this Action. Such
25 Protected Material may be disclosed only to the categories of persons and under the
26 conditions described in this Order. When the Action has been terminated, a
27 Receiving Party must comply with the provisions of section 12 below (FINAL
28 DISPOSITION).

1 Protected Material must be stored and maintained by a Receiving Party at a
2 location and in a secure manner that ensures that access is limited to the persons
3 authorized under this Order.

4 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
5 otherwise ordered by the court or permitted in writing by the Designating Party, a
6 Receiving Party may disclose any information or item designated
7 “CONFIDENTIAL” only to:

8 (a) the Receiving Party’s Outside Counsel of Record in this Action, as
9 well as employees of said Outside Counsel of Record to whom it is reasonably
10 necessary to disclose the information for this Action;

11 (b) the officers, directors, and employees (including House Counsel) of the
12 Receiving Party to whom disclosure is reasonably necessary for this Action;

13 (c) Experts (as defined in this Order) of the Receiving Party to whom
14 disclosure is reasonably necessary for this Action and who have signed the
15 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

16 (d) the Court and its personnel;

17 (e) court reporters and their staff;

18 (f) professional jury or trial consultants, mock jurors, and Professional
19 Vendors to whom disclosure is reasonably necessary for this Action and who have
20 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

21 (g) the author or recipient of a document containing the information or a
22 custodian or other person who otherwise possessed or knew the information;

23 (h) during their depositions, witnesses, and attorneys for witnesses, in the
24 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
25 informs the witness and their attorneys that the information or items is marked as
26 CONFIDENTIAL; and (2) they will not be permitted to keep any confidential
27 information, unless otherwise agreed by the Designating Party or ordered by the
28 court. Pages of transcribed deposition testimony or exhibits to depositions that

1 reveal Protected Material may be separately bound by the court reporter and may
2 not be disclosed to anyone except as permitted under this Order; and

3 (i) any mediator or settlement officer, and their supporting personnel,
4 mutually agreed upon by any of the parties engaged in settlement discussions.

5 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
6 **PRODUCED IN OTHER LITIGATION**

7 If a Party is served with a subpoena or a court order issued in other litigation
8 that compels disclosure of any information or items designated in this Action as
9 “CONFIDENTIAL,” that Party must:

10 (a) promptly notify in writing the Designating Party. Such notification
11 shall include a copy of the subpoena or court order;

12 (b) promptly notify in writing the party who caused the subpoena or order
13 to issue in the other litigation that some or all of the material covered by the
14 subpoena or order is subject to this Order. Such notification shall include a copy of
15 this Order; and

16 (c) cooperate with respect to all reasonable procedures sought to be
17 pursued by the Designating Party whose Protected Material may be affected.

18 If the Designating Party timely seeks a protective order, the Party served with
19 the subpoena or court order shall not produce any information designated in this
20 action as “CONFIDENTIAL” before a determination by the court from which the
21 subpoena or order issued, unless the Party has obtained the Designating Party’s
22 permission. The Designating Party shall bear the burden and expense of seeking
23 protection in that court of its confidential material and nothing in these provisions
24 should be construed as authorizing or encouraging a Receiving Party in this Action
25 to disobey a lawful directive from another court.

26 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**
27 **PRODUCED IN THIS LITIGATION**

28 (a) The terms of this Order are applicable to information produced by a

1 Non-Party in this Action and designated as “CONFIDENTIAL.” Such information
2 produced by Non-Parties in connection with this litigation is protected by the
3 remedies and relief provided by this Order. Nothing in these provisions should be
4 construed as prohibiting a Non-Party from seeking additional protections.

5 (b) In the event that a Party is required, by a valid discovery request, to produce a
6 Non-Party’s confidential information in its possession, and the Party is subject to an
7 agreement with the Non-Party not to produce the Non-Party’s confidential
8 information, then the Party shall:

9 (1) promptly notify in writing the Requesting Party and the Non-
10 Party that some or all of the information requested is subject to a confidentiality
11 agreement with a Non-Party;

12 (2) promptly provide the Non-Party with a copy of the Stipulation
13 for Protective Order in this Action, the relevant discovery request(s), and a
14 reasonably specific description of the information requested; and

15 (3) make the information requested available for inspection by the
16 Non-Party, if requested.

17 (c) If the Non-Party fails to seek a protective order from this Court within
18 14 days of receiving the notice and accompanying information, the Receiving Party
19 may produce the Non-Party’s confidential information responsive to the discovery
20 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
21 not produce any Protected Material with the Non-Party before a determination by the
22 court. Absent a court order to the contrary, the Non-Party shall bear the burden and
23 expense of seeking protection in this court of its Protected Material.

24 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

25 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
26 Protected Material to any person or in any circumstance not authorized under this
27 Order, the Receiving Party must immediately (a) notify in writing the Designating
28 Party of the unauthorized disclosures, (b) use its best efforts to retrieve all

1 unauthorized copies of the Protected Material, (c) inform the person or persons to
2 whom unauthorized disclosures were made of all the terms of this Order, and (d)
3 request such person or persons to execute the “Acknowledgment and Agreement to
4 Be Bound” that is attached hereto as Exhibit A.

5 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
6 **PROTECTED MATERIAL**

7 When a Producing Party gives notice to Receiving Parties that certain
8 inadvertently produced material is subject to a claim of privilege or other
9 protection, the obligations of the Receiving Parties are those set forth in Federal
10 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
11 whatever procedure may be established in an e-discovery order that provides for
12 production without prior privilege review. Pursuant to Federal Rule of Evidence
13 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure
14 of a communication or information covered by the attorney-client privilege or work
15 product protection, the parties may incorporate their agreement in the Order to the
16 court.

17 **12. MISCELLANEOUS**

18 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
19 person to seek its modification by the Court in the future.

20 12.2 Right to Assert Other Objections. By stipulating to the entry of this
21 Protective Order, no Party waives any right it otherwise would have to object to
22 disclosing or producing any information or item on any ground not addressed in this
23 Order. Similarly, no Party waives any right to object on any ground to use in
24 evidence of any of the material covered by this Order.

25 12.3 Filing Protected Material. A Party that seeks to file under seal any
26 Protected Material must comply with Local Rule 79-5. Protected Material may only
27 be filed under seal pursuant to a court order authorizing the sealing of the specific
28 Protected Material at issue. If a Party’s request to file Protected Material under seal

1 is denied by the Court, then the Receiving Party may file the information in the
2 public record unless otherwise instructed by the Court.

3 **13. FINAL DISPOSITION**

4 After the final disposition of this Action, within 60 days of a written request
5 by the Designating Party, each Receiving Party must return all Protected Material to
6 the Producing Party or destroy such material. As used in this subdivision, "all
7 Protected Material" includes all copies, abstracts, compilations, summaries, and any
8 other format reproducing or capturing any of the Protected Material. Whether the
9 Protected Material is returned or destroyed, the Receiving Party must submit a
10 written certification to the Producing Party (and, if not the same person or entity, to
11 the Designating Party) by the 60 day deadline that (1) identifies (by category, where
12 appropriate) all the Protected Material that was returned or destroyed and (2)
13 affirms that the Receiving Party has not retained any copies, abstracts,
14 compilations, summaries or any other format reproducing or capturing any of the
15 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
16 archival copy of all pleadings, motion papers, trial, deposition, and hearing
17 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
18 reports, attorney work product, and consultant and expert work product, even if
19 such materials contain Protected Material. Any such archival copies that contain or
20 constitute Protected Material remain subject to this Order.

21 Even after final disposition of this Action, the confidentiality obligations
22 imposed by this Order shall remain in effect until a Designating Party agrees
23 otherwise in writing or a court order otherwise directs. Final disposition shall be
24 deemed to be the later of (1) dismissal of all claims and defenses in this Action,
25 with or without prejudice; and (2) final judgment herein after the completion and
26 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
27 including the time limits for filing any motions or applications for extension of time
28 pursuant to applicable law.

1 **14. VIOLATION**

2 Any violation of this Order may be punished by appropriate measures
3 including, without limitation, contempt proceedings and/or monetary sanctions.

4 **15. PENDING DESIGNATION**

5 The Parties and all signatories to Exhibit A agree to be bound by this Order
6 pending its approval and entry by the Court. In the event that the Court modifies the
7 Order, or in the event that the Court enters a different order, the Parties agree to be
8 bound by this Order until such time as the Court may enter such a different order. It
9 is the Parties' intent to be bound by the terms of this Order pending its entry so as to
10 allow for immediate production of Protected Material under the terms herein.

11 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

12
13 **ATTESTATION OF CONCURRENCE IN FILING**

14 Pursuant to Local Rule 5-4.3.4(a)(2)(i), the filer hereby attests that
15 concurrence in the filing of this document has been obtained from all other
16 signatories listed.

17
18 Dated: January 11, 2018

HURWITZ, ORIHUELA & HAYES, LLP

19 By: /s/ Nicolas Orihuela

20 Nicolas Orihuela, Attorneys
21 for Plaintiff Angela Rausch

22 Dated: January 11, 2018

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

23
24 By: /s/ Lacey Rainwater

Lacey Rainwater, Attorneys for Defendant
25 Forfeiture Support Associates, LLC

26 *[Additional signatures on following page.]*
27
28

1 Dated: January 11, 2018

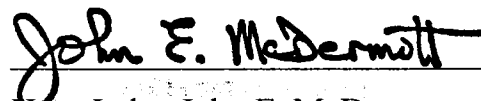
NICOLA T. HANNA
United States Attorney
DOROTHY A. SCHOUTEN
Assistant United States Attorney
Chief, Civil Division
ROBYN-MARIE LYON MONTELEONE
Assistant United States Attorney
Chief, General Civil Section, Civil Division

7 By: /s/ Alarice M. Medrano
8 Alarice M. Medrano, Assistant United States
9 Attorney, Attorneys for Defendant Jefferson B.
Sessions, Attorney General of the United States

12 FOR GOOD CAUSE SHOWN, THE COURT HEREBY APPROVES THE
13 STIPULATION FOR PROTECTIVE ORDER.

14 IT IS SO ORDERED.

15 Dated: 1/17/18


Hon. Judge John E. McDermott
United States Magistrate Judge

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EXHIBIT A
ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____, declare under penalty of perjury that I have read in its entirety and understand the Order that was issued by the United States District Court for the Central District of California on _____ in the case of Rausch v. Sessions *et al.*; Case No. 2:17-cv-05422-FMO (JEMx). I agree to comply with and to be bound by all the terms of this Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Order to any person or entity except in strict compliance with the provisions of this Order. I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for enforcing the terms of this Order, even if such enforcement proceedings occur after termination of this Action.

Dated: _____

32641006.1